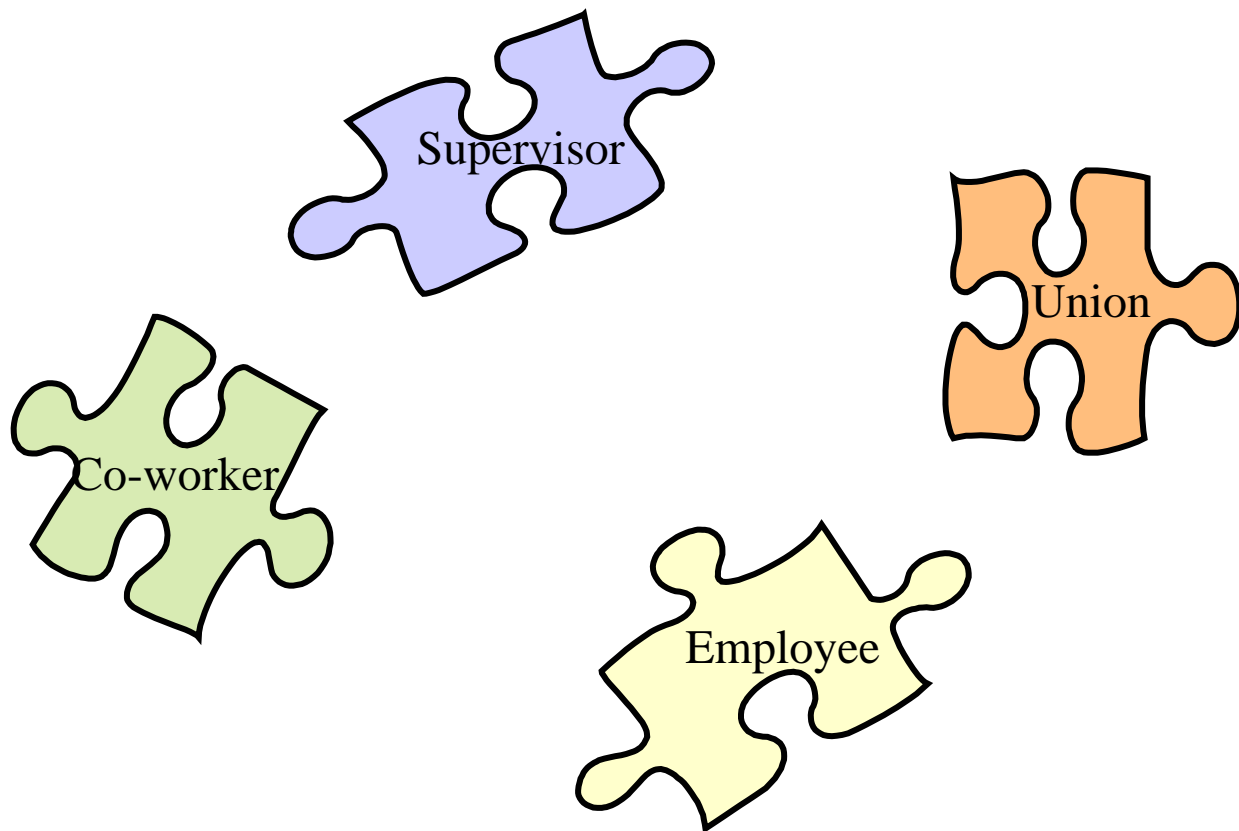


South Florida
Federal Executive Board

SNAP Handbook



For EEO Complaints, Grievances and Workplace Disputes,
it's a SNAP to use the

Shared Neutral's ADR Program
(SNAP)



DEFINITIONS

SNAP - Shared Neutrals ADR Program: A program of the South Florida Federal Executive Board (FEB) which promotes and arranges for Alternative Dispute Resolution (ADR) in the form of Shared Neutrals Mediators to help resolve workplace disputes effectively, efficiently and at reduced cost.

Some of the following definitions are based upon 5 U.S.C. §571 (1999):

Agency Processes: Mechanisms already in place to deal with workplace disputes in Federal agencies, such as the Equal Employment Opportunity (EEO) process, union contract provisions, agency grievance procedures, etc.

Alternative Dispute Resolution (ADR): A wide range of problem-solving procedures which use neutral third parties to resolve disputes, as an alternative to Agency Processes or to formal, adversarial methods like litigation. ADR includes mediation, conciliation, negotiation and arbitration.

Issues In Controversy: Workplace disputes or problems that may be resolved through traditional Agency Processes or non-traditional processes, like ADR.

Mediation: A voluntary, confidential, informal process whereby a trained neutral third party (a Mediator) assists the

disputing parties in finding a mutually acceptable solution in a manner different from traditional methods. For example, unlike litigation, the rules of evidence do not apply, no testimony is taken and the Mediator does not decide the dispute.

Mutually Acceptable: Satisfactory to the needs and expectations of all parties involved in a dispute.

Neutral: An individual who does not have a vested interest or stake in the issues or outcome of a dispute and who functions specifically to aid all parties in resolving it.

Party: A person who will be significantly affected by the outcome of a dispute and who participates in the procedure.

Settlement Agreement: A legally binding written agreement signed by all parties, containing a mutually arrived at and acceptable solution to a dispute.

Shared Neutral: A Federal employee who is a trained Mediator on a roster of FEB approved Mediators, available for ADR cases in other agencies. In the SNAP Program, the home agency pays the Mediator's salary and the user agency pays for travel and other costs.

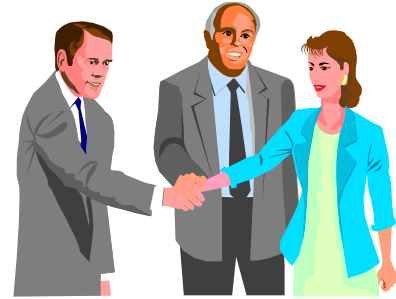
Union Grievance: A process available to bargaining unit employees and union officials to communicate issues to management.

Voluntary: Each party in the SNAP process has chosen to participate of his/her own free will.



Expert Comments on Mediation

“Sometimes we have parties who feel devastated with the way the Administrative Judge decided the dispute should be resolved. When they lose a case like that, they have to revisit the issue...Mediation is the best opportunity for both parties to participate in a compromise to resolve the complaint...FEB mediators I have found to be both professional and capable.”



Dwight Lewis,
Administrative Judge,
EEO Commission

“The Mediation process is truly empowerment.”

Teal Lewis,
Interagency Mediation Chair
Dallas/Fort Worth
Federal Executive Board

Why use SNAP?

Managers and Employees like SNAP Because:

- Relationships are improved.
 - The parties informally discuss the issues and may vent their frustrations.
 - No one is forced to agree to anything; if the mediation doesn't work, the parties pursue their usual options.
 - SNAP Mediators and the mediation process focus on the parties' interests with the goal of arriving at a mutually agreed-upon solution.
 - No outside party, such as a Judge, imposes an outcome.
 - Because SNAP is a "win-win" method with no loser, Employees and Managers seem less adversarial after mediation than after a court decision.
 - SNAP is always worth a try! There's nothing to lose except for a few hours of time and there's a lot to gain if resolution occurs.
- SNAP is impartial and preserves confidentiality.
 - Because SNAP Mediators come from other agencies, Employees and Managers consider them neutral.
 - Mediators have no stake in the outcome.
 - Employees and Managers are less concerned with saving face with outside Mediators conducting the sessions.
 - Impartial Mediators encourage all parties to speak openly.
 - Confidentiality prohibits gossip about dispute cases.
- SNAP resolves problems faster.
 - Many SNAP disputes are resolved in a few weeks with one day's time spent by each party. In contrast, EEO complaints may require years to resolve, hundreds of hours of Management, Employee and Staff time and thousands of dollars.
 - SNAP helps to "clear the air", freeing parties to focus on work.
 - SNAP results in fewer repeat complaints, resulting in improved productivity.
- SNAP is free!
 - There is no cost to the Employee.
 - The user agency pays only local travel costs.
 - The agency lending the SNAP Mediator pays its own employee's salary.



Union Officials like SNAP
because it resolves
grievances.

- SNAP increases Union productivity.
 - SNAP cases are resolved in a few weeks, usually with only one day's time spent by the Union official.
 - With SNAP, Union officials can help more employees by not getting tied up with a few time-consuming cases.
 - Without SNAP, grievances can take years to resolve and can drain limited Union staff time.
- SNAP lets the Union stay in control.
 - A Union official may attend the SNAP mediation session and speak on behalf of the employee.
 - SNAP Mediators address the employee's interests and do not impose solutions, as does a Judge.
 - If mediation does not resolve the case, the Union still has legal remedies available, so there is nothing to lose by using SNAP.
 - With no possibility of losing cases with SNAP, the Union does not risk losing face and marring its success rate.
- SNAP Mediators are professional and impartial.
 - SNAP Mediators have been specially trained and must be accepted by the South Florida Federal Executive Board Interagency Mediation Council.
 - Because the SNAP Mediators come from other agencies, all sides are assured of the neutrality of the Mediator.
 - The SNAP mediation process ensures confidentiality.
 - SNAP uses a "Co-Mediator" process, where two Mediators are assigned to a case, providing better services for all sides.
- SNAP Mediators are free to the Union!
 - The agency lending the Mediator pays its own employee's salary.
 - There is no cost to the Union for using the SNAP process.
 - The user agency pays for the local travel costs of the Mediator.

Frequently Asked Questions



What is a SNAP Mediation? A SNAP Mediation involves a workplace or employment-related dispute, such as an EEO complaint or grievance in a Federal agency in the South Florida area. The trained Mediator comes from a different Federal agency to ensure neutrality and may be assisted by a Co-mediator.

What is the authority for SNAP?

- In 1996, the Administrative Dispute Resolution Act (ADRA) was passed by Congress.
- EEOC Notice 915.002 of 1995 stated "The Equal Employment Opportunity Commission (EEOC) is committed to using alternative methods for resolving disputes in all of its activities ... ADR can provide faster, less expensive and contentious and more positive results."
- Since November 1999, EEOC Regulation 29 CFR Part 1614 has required Federal agencies to make an ADR program available during the EEO pre-complaint and formal complaint processes.

What is your role as a Mediator? The Mediator's job is to facilitate the mediation process to help the parties reach a resolution of their dispute. The Mediator does not decide the case nor dictate the terms of a settlement. If an agreement occurs, both sides win and there is no loser.

What is Co-mediation? Co-mediation is a process that uses two Mediators. This can help to "balance the table" for parties who may request a Mediator of a specific gender, ethnic or professional background, creating trust and openness for these parties. Co-Mediators work together to provide feedback and support each other. All rules of impartiality and confidentiality apply for Co-Mediators.

How long do most Mediations last? Most SNAP mediation sessions last for eight hours or less.

Is Mediation a legal proceeding?

- It is not a legal proceeding and no legal advice will be given.
- When you agree to mediation, you do not waive the right to proceed with the formal legal dispute resolution process.
- If you are unsure of your timeframes, please check with your representative or the appropriate agency officials.

How does a typical mediation conference start? The Mediator starts with an opening statement in a joint session with both

parties, explaining the mediation process and the Mediator's role as a neutral facilitator. The complainant/grievant states his/her own case and the Management representative gives his/her side of the dispute.

What occurs after the conference opening? After the opening, the parties have a joint discussion with clarifying questions asked and potential solutions discussed. Sometimes the Mediator will meet separately with each party to discuss issues privately. Information discussed in the separate session (called a caucus) is confidential and will be not be shared with the other party unless the Mediator is expressly consented to do so. After the caucus, the Mediator reconvenes a joint session and the negotiation continues.

What happens if an agreement occurs? Either party may consult with their representatives regarding the proposed agreement. If a settlement is reached, the Mediator drafts an agreement acceptable to all parties and their representatives. Appropriate management and/or legal personnel often review the agreements before they are signed. Once accepted, the agreement is signed by both parties and becomes legally binding.

What aspects of Mediation are confidential? The Mediator is bound by law to keep all information confidential. There are a few exceptions to this and they include the following:

- A party committed a crime or act of fraud, waste or abuse.
- A party threatens to commit a violent physical act.
- There is evidence of child abuse, elderly abuse or abuse of the disabled.



The Mediation session is neither tape-recorded nor transcribed and after the session, all notes and document copies (except the agreement) are destroyed. The parties agree not to request any information from or subpoena the Mediator in any future legal proceeding if the mediation fails to resolve the dispute. 5 USC 574 contains full information on the confidentiality of the mediation process.

May representatives attend the mediation? You may have a representative attend the mediation session with you as long as you notify the Mediator in advance. Either party may bring a representative or legal counsel subject to negotiated agreements for bargaining unit employees.

What standards guide a Mediator? SNAP Mediators follow the Model Standards of Conduct issued by the American Arbitration Association (AAA), the American Bar Association (ABA), the

Society of Professionals In Dispute Resolution (SPIDR) and Chapter 44 of the Florida Statutes. These standards require the following:

- Self-determination: Self-determination (voluntary choices and uncoerced agreements made by parties) governs the mediation process. The Mediator encourages all parties to consider all proposed options for resolution. Mediators do not impose or dictate the terms of a settlement.
- Conflicts of interest: A conflict of interest is a dealing, relationship or interest in a dispute or its outcome that may create bias or has the perception of possible bias. The Mediator must disclose all actual or potential conflicts of interest. If a conflict of interest casts doubt upon integrity of the process, the Mediator must decline to proceed and another Mediator shall be assigned to the case.
- Confidentiality: The Mediator must not voluntarily disclose any matter that a party expects to be confidential except as required by law or unless permission has been expressly granted by that party. All notes taken during the mediation session are destroyed and the SNAP evaluation forms and program records are seen only by the Mediator and the SNAP Program Coordinator.
- Quality of the process: All Mediators have the proper training and experience and must be approved by the South Florida Federal Executive Board Interagency Mediation Council before they are permitted to conduct mediation sessions. The Mediator conducts the session timely, fairly and diligently.



For what types of cases is mediation helpful?

- The parties want settlement, but personality conflicts or poor communication have hampered negotiations.
- An underlying issues not formally part of the dispute and not resolvable by available legal help may exist.
- The parties shall or should have a continuing relationship.
- The parties expect to settle eventually, possibly at court.
- At least one party wants to avoid an imposed outcome.
- At least one party wants to avoid high litigation costs.
- If at least one party's view of the case is unrealistic, a discussion with a Mediator present may move the process forward.
- Traditional negotiations have reached an impasse.
- Multiple or complex issues are involved.
- Resolution is desired quickly.
- The parties prefer to maintain confidentiality about the case.

- More than one possible solution exists; no one particular resolution is necessarily the "right" one.
- Note: For bargaining unit employees, using ADR must have been negotiated or agreed to by Union and Management.

For what types of disputes is mediation not helpful?

- One or both parties may be guilty of criminal conduct, fraud, waste or abuse.
- Significant legal, policy or constitutional issues are present.
- Cases involving criminal actions, class or systemic issues and Equal Pay Act issues cannot be mediated.
- One party wants a precedent, a principle established, or a point proven.
- Uniform treatment of the issue is needed (for example, the issue has nationwide impact or many similar cases are pending.)
- A full public record of the proceeding is important.
- The dispute significantly affects non-parties (for example, the relationship between the local Union and Agency Management.)
- One party seeks major damages.
- One or both parties are not open to negotiation.
- The case can be settled through unassisted negotiations.

How much does SNAP cost? SNAP provides free Mediation when both parties request it. Trained SNAP Mediators are Federal employees who are paid by their home agencies. The using agency pays just for local travel expenses. The only condition is that all parties, SNAP Mediators and Federal agency coordinators fill out program evaluation forms upon completion of the mediation and forward them on to the SNAP Coordinator. This confidential information is only used to evaluate and improve the SNAP process and Mediators.



Does SNAP save money? Federal agencies using Shared Neutrals ADR programs have reported the savings of thousands of dollars over the costs of traditional employee dispute litigation. Employees save money by settling issues on a local level, usually without needing expensive legal representation. SNAP Mediators are free; private Mediators may charge up to \$250 per hour.

Does mediation work? Approximately 80% of mediated cases are resolved. Participants on both sides express a high degree of satisfaction with the process that avoids lengthy investigation and costly litigation. Most Employees and Managers who have used the mediation process reported that they would use it again in any future disputes.



If I have more questions, who should I contact? For any additional information concerning the SNAP program, contact your agency EEO/HR Representative, or the following:

South Florida Federal Executive Board

SNAP Coordinator

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South Florida Federal Executive Board

Interagency Mediation Council Vice Chairperson

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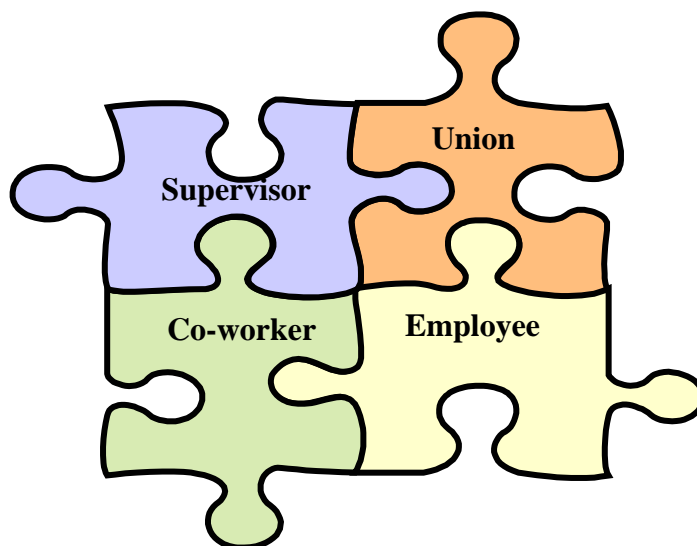
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SNAP – Helping you put the pieces back together again.